

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

19-cr-86 (JLS) (MJR)

ANTHONY GERACE,

Defendant.

DECISION AND ORDER

Defendant Anthony Gerace is charged in an 11-count superseding indictment with committing controlled substances and firearms offenses between 2006 and January 2019. *See* Dkt. 21. On May 9, 2019, United States Magistrate Judge Michael J. Roemer was designated to hear and determine, and report and recommend on, all pre-trial proceedings under 28 U.S.C. §§ 636(b)(1)(A) and (B). Dkt. 9. This case, originally assigned to United States District Judge Lawrence J. Vilardo, was reassigned to this Court on January 3, 2020. Dkt. 31.

Gerace moved to suppress physical evidence seized during the January 28, 2019 searches of 9070 Michael Douglas Drive and his person,¹ and to suppress his statements to law enforcement on January 28, 2019. *See* Dkt. 14 ¶¶ 68-77. The government responded in opposition to Gerace's motion to suppress and notified Gerace that it produced his statements to law enforcement. *See* Dkt. 17, at 22-25.

¹ Gerace filed several other motions, including for disclosure of his statements to law enforcement. *See* Dkt. 14 ¶¶ 78-79.

Judge Roemer held oral argument, at which Gerace moved to suppress his January 28, 2019 statements to law enforcement.² *See* Dkt. 43, at 3-4. On June 26, 2020, Judge Roemer issued a Report, Recommendation and Order (“R&R”), recommending that this Court deny Gerace’s motions to suppress.³ Dkt. 43. Neither Gerace nor the government objected to the R&R, and the time to do so has expired. *See* 28 U.S.C. § 636(b)(1); Fed. R. Crim. P. 59(b)(2); *see also* Dkt. 44 (government’s notice of no objections).

A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Crim. P. 59(b)(3). A district court must conduct a *de novo* review of those portions of a magistrate judge’s recommendation to which a party objects. 28 U.S.C. § 636(b)(1); Fed. R. Crim. P. 59(b)(3). But a district court is not required to review the recommendation of a magistrate judge to which no objections are raised. *See Thomas v. Arn*, 474 U.S. 140, 149-50 (1985).

Though not required to do so, this Court reviewed Judge Roemer’s R&R, as well as the parties’ submissions to Judge Roemer and the criminal complaint signed on January 28, 2019 (Dkt. 1). Based on that review and absent any objections, the Court accepts and adopts Judge Roemer’s recommendation to deny Gerace’s motions.

² Gerace filed pre-trial motions in August 2019, before the grand jury issued a superseding indictment in October 2019. *See* Dkts. 14, 21. He was given time to file supplemental pre-trial motions but did not do so. *See* Dkt. 30.

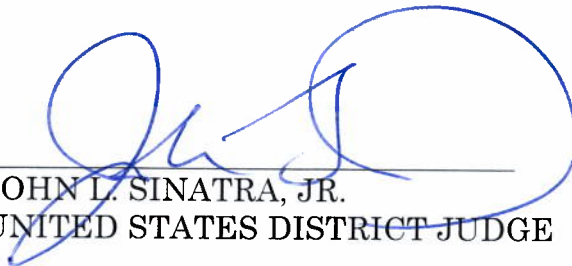
³ Only the suppression motions are before the Court. Judge Roemer decided Gerace’s other motions. *See* Dkt. 43.

For the reasons stated above and in the R&R, the Court DENIES Gerace's motions to suppress (Dkt. 14).

The parties shall appear before this Court on July 29, 2020, at 10:00 a.m. for a status conference to set a trial date.

SO ORDERED.

Dated: July 23, 2020
Buffalo, New York



JOHN L. SINATRA, JR.
UNITED STATES DISTRICT JUDGE